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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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REGINALD C. HOWARD,

Petitioner,

v.

JAMES DZURENDA, et al.,

Respondents.

Case No. 2:19-cv-00500-GMN-PAL

ORDER

Petitioner Reginald C. Howard has submitted a 28 U.S.C. § 2254 habeas corpus petition (ECF No. 1-1). His application to proceed in forma pauperis is granted. The court has reviewed the petition pursuant to Habeas Rule 4, and it shall be docketed and served on respondents.

A petition for a writ of federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

IT IS THEREFORE ORDERED that the application to proceed in forma pauperis (ECF No. 1) is **GRANTED**.

1 **IT IS FURTHER ORDERED** that the Clerk shall file and ELECTRONICALLY
2 SERVE the petition (ECF No. 1-1) on the respondents.

3 **IT IS FURTHER ORDERED** that the Clerk shall add Aaron D. Ford, Nevada
4 Attorney General, as counsel for respondents.

5 **IT IS FURTHER ORDERED** that respondents shall file a response to the petition,
6 including potentially by motion to dismiss, within 90 days of service of the petition, with
7 any requests for relief by petitioner by motion otherwise being subject to the normal
8 briefing schedule under the local rules. Any response filed shall comply with the
9 remaining provisions below, which are entered pursuant to Habeas Rule 5.

10 **IT IS FURTHER ORDERED** that any procedural defenses raised by respondents
11 in this case shall be raised together in a single consolidated motion to dismiss. In other
12 words, the court does not wish to address any procedural defenses raised herein either
13 in seriatum fashion in multiple successive motions to dismiss or embedded in the
14 answer. Procedural defenses omitted from such motion to dismiss will be subject to
15 potential waiver. Respondents shall not file a response in this case that consolidates
16 their procedural defenses, if any, with their response on the merits, except pursuant to
17 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If
18 respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall
19 do so within the single motion to dismiss not in the answer; and (b) they shall
20 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set
21 forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no
22 procedural defenses, including exhaustion, shall be included with the merits in an
23 answer. All procedural defenses, including exhaustion, instead must be raised by
24 motion to dismiss.

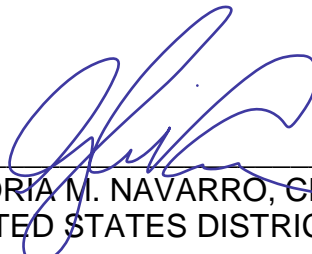
1 **IT IS FURTHER ORDERED** that, in any answer filed on the merits, respondents
2 shall specifically cite to and address the applicable state court written decision and state
3 court record materials, if any, regarding each claim within the response as to that claim.

4 **IT IS FURTHER ORDERED** that petitioner shall have 45 days from service of the
5 answer, motion to dismiss, or other response to file a reply or opposition, with any other
6 requests for relief by respondents by motion otherwise being subject to the normal
7 briefing schedule under the local rules.

8 **IT IS FURTHER ORDERED** that any additional state court record exhibits filed
9 herein by either petitioner or respondents shall be filed with a separate index of exhibits
10 identifying the exhibits by number. The CM/ECF attachments that are filed further shall
11 be identified by the number or numbers of the exhibits in the attachment.

12 **IT IS FURTHER ORDERED** that, at this time, the parties shall send courtesy
13 copies of **any responsive pleading or motion and all INDICES OF EXHIBITS ONLY**
14 to the Reno Division of this court. Courtesy copies shall be mailed to the Clerk of Court,
15 400 S. Virginia St., Reno, NV, 89501, and directed to the attention of "Staff Attorney" on
16 the outside of the mailing address label. **No further courtesy copies are required**
17 **unless and until requested by the court.**

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22 Dated: April 1, 2019

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26 GLORIA M. NAVARRO, CHIEF JUDGE
27 UNITED STATES DISTRICT COURT
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